IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.20195 of 1998

Between:

The Depot Manager, APSRTC,
Hanamkonda, Warangal district.

..... PETITIONER

AND

1 G.Gopal Rao, Ex.Conductor, B.416,
Village: Vasanthapuram post via Dharmaram,
Warangal District.
2 The Industrial Tribunal cum Labour court,
Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction particularly in the nature of writ of certiorari calling for the records pertaining to the award of the Industrial Tribunal cum Labour Court, Warangal in I.D.No.158/87 dated 29/01/1998 and published on 24/02/1998 and quash the same as illegal, arbitrary and unjust.

Counsel for the Petitioner: Smt.P.RAJANI REDDY

Counsel for Respondent No.1: Mr.B.SUDHAKAR REDDY &

Mrs. NEERAJA REDDY

Counsel for Respondent No.2: G.P. for Labour

The Court made the following :

ORAL ORDER:

This Writ Petition is filed by the Depot Manager, A.P. State Road Transport Corporation, Hanamakonda, Warangal district (Management) being aggrieved by the Award dated 29-1-1998 passed by the Industrial Tribunal-cum-Labour Court, Warangal in I.D.No.158 of 1987.

This case has some chequered history. The 1st respondent-workman was appointed as a Conductor in the APSRTC with effect from 1-2-1966. Thereafter, his services were terminated on 18-5-1967 for certain misconduct, without conducting any inquiry into the matter. The workman raised conciliation proceedings on 9-7-1986. On receipt of failure report, the Government referred the matter to the Labour Court, Warangal under Section 10(1)(c) of the Industrial Disputes Act,1947 to adjudicate upon the following issue:

> "Whether Sri G.Gopal Rao, Ex-Conductor, B-416, APSRTC, Hanamkonda is justified in demanding reinstatement with full back wages, continuity of service and with all attendant benefits from the Depot of the APSRTC, Hanamkonda ?"

In the said I.D. the validity of the domestic inquiry was taken up as a preliminary issue and on 17-10-1987 the Labour Court passed an Order holding that the domestic inquiry was not valid. Though the Management was permitted to adduce evidence, they failed to produce any evidence and therefore, on 12-4-1988 passed an Award directing the Management to reinstate the workman into service with full

back wages. Thereafter, the Management filed I.A.No.112 of 1988 praying to set aside the *ex parte* Award and to permit it to adduce evidence. After hearing both sides, the said I.A. was dismissed on 5-10-1988. Thereafter, the workman was reinstated into service in the year 1990 in pursuance of the award passed by the Labour Court in I.D.No.158 of 1987, dated 12-4-1988. Thereafter, the Management filed Writ Petition No.10796 of 1994 before this Court, which was dismissed. Assailing the said Order, the Management filed an appeal being Writ Appeal No.782 of 1994, which was disposed of on 19-4-1997 remanding the matter to the Labour Court to dispose of the I.D. afresh after giving opportunity to both the parties and to pay half of the back wages instead of full back wages and the workman would be continued in the post, subject to the result of the I.D.

After remand, the workman as well as the Management adduced evidence before the Labour Court. After appreciation of the entire oral and documentary evidence, the Labour Court came to the conclusion that the termination of the services of the workman was illegal and he is entitled to reinstatement, continuity of service etc. Since the workman raised a belated dispute after almost 19 years, half of the back wages were awarded only from 9-7-1986 i.e. the date of moving conciliation proceedings till the date of reinstatement i.e. 1990. Aggrieved by the same, the present Writ Petition is filed.

Heard the learned counsel for the parties and also gone through the entire material made available on record.

This is a case where the Management has utterly failed to adduce any evidence to substantiate its stand. Therefore, the Labour Court has rightly come to the conclusion that the termination order passed by the Management on 18-5-1967 is arbitrary and illegal. However, it was held that the workman is entitled for half of the back wages from 9-7-1986 i.e. the date of moving conciliation proceedings till the date of reinstatement in 1990 with continuity of service and all other attendant benefits.

It is an unfortunate case that a dispute, which was raised after about 19 years was entertained and adjudicated. Thereupon, as noted above, it went into whirl of dispute resulting in filing of Writ Petition No.10796 of 1994, Writ Appeal No.782 of 1994 and the present Writ Petition, apart from remanding the matter to the Labour Court once. Be that as it may, sine the workman raised a dispute, admittedly, after

about 19 years, he is not entitled for continuity of service and all other attendant benefit for the period he was out of service.

In the result, the Award passed by the Labour Court is modified to the effect that the removal order passed by the Management dated 18-5-1967 is set aside and the Management is directed to reinstate the workman into service with half of the back wages from 9-7-1986 till the date of his reinstatement in the year 1990. However, the continuity of service and all other attendant benefits, as awarded by the Labour Court, will be confined only from 9-7-1986 till the date of his reinstatement in the year 1990 and for the rest of the period i.e. from the date of removal from service i.e. 18-5-1967 to 8-7-1986 the services of the workman shall not be treated as continuity of service for any purpose including for computation of retiral benefits.

With the above modification in the impugned Award, the Writ Petition is disposed of. No order as to costs.

22-6-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Industrial Tribunal cum Labour court,
   Warangal.

2. The Depot Manager, APSRTC, Hanamkonda, Warangal.

3. 2 CCs to Govt.Pleader for Labour, High Court Buildings, Hyderabad (OUT)

4. 2 CD copies